

3:12-cr-215

ORDER

Here, the defendant was convicted and sentenced for contempt after he pled guilty to diverting funds and other assets in violation of this Court's Order. (Case No. 3:10-cr-121, Doc. No. 1: Notice of Criminal Contempt Proceedings; Doc. No. 9: Plea Agreement; Doc. No. 15: Plea Agreement). Although the Presentence Report (PSR) briefly summarized the alleged underlying conduct which led to the accumulation of the assets, (Doc. No. 12: PSR at ¶ 5), the elements of the offense were: (1) a reasonably specific order; (2) violation of the order; and (3) the willful intent to violate the order. See United States v. Landerman, 109 F.3d 1053, 1068 (5th

Cir. 1997) (listing elements of criminal contempt). This instant indictment alleges securities fraud (Count One), wire fraud (Count Two), and money laundering (Count Three), the elements of which require different facts than the criminal contempt charge. Thus, a conviction for violating the Court's Order relating to assets does not bar subsequent prosecution for the conduct which allegedly led to the accumulation of the assets. United States v. Hickey, 367 F.3d 888, 892 (9th Cir. 2004).

IT IS, THEREFORE, ORDERED, that the defendant's Motion to Dismiss, (Doc. No. 20) is **DENIED**.

Signed: December 4, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

